

Appendix E

TIF Policy and Implementation White Paper

Baltimore Development Corporation (BDC) October 28, 2010

As BDC and City agencies consider requests from developers for public financing assistance through Tax Increment Financing (TIF) to support key development projects within Baltimore City, it is valuable to understand: what a TIF is; how a TIF is established; BDC's process for consideration of a TIF; and to summarize approved and anticipated TIFs.

1. What is TIF

TIF is a source of public financing for the construction of public infrastructure and site improvements associated with the construction of real estate development projects. The strategic use of TIF provides the opportunity for the City to leverage limited public financing in order to attract significant private investment in development projects within Baltimore City in order to further the City's development and land use goals, grow the City's tax base, and create jobs.

A TIF functions by "capturing" net new real property tax revenues generated by a specific development project, and using those tax revenues to pay debt service on TIF bonds to fund, in whole or in part, eligible public infrastructure and site improvements that are part of, or necessary for, the implementation of a development project.

Prior to the redevelopment of a private development site, the site generates real property taxes on an annual basis which are assessed by the State and paid to the City through its normal real property tax collection system (the "Baseline Value"). When the site is redeveloped for a higher and better use, new real property taxes are generated above and beyond the Baseline Value. This additional tax revenue is known as the "Tax Increment." With City Council approval via a series of Ordinances (described below), the City can: (a) segregate the Tax Increment into a special "Increment Fund;" (b) issue special obligation TIF revenue bonds; (c) use the TIF bond proceeds to finance construction of necessary public infrastructure; and (d) pledge the Tax Increment above and beyond the Baseline Value to pay the debt service and issuance costs on the TIF bonds. In certain cases, the City may elect not to issue bonds, and simply use the tax increment collected in the "Increment Fund" on dollar-for-dollar basis; this is known as a "Pay-Go" TIF.

2. How a TIF is Established

The City was granted the authority to issue TIF bonds under Article II, Section 62 of the Baltimore City Charter by the General Assembly of the State of Maryland, effective October 1, 2000, and as amended on July 1, 2001. The enabling legislation for TIF requires that all bond proceeds be applied solely for:

- a. Acquisition of land or other property including right-of-way or other easements in the development district by purchase or condemnation;
- b. Site removal;
- c. Surveys and studies;
- d. Relocation of businesses or residents;
- e. Installation of utilities, construction of parks, playgrounds and other necessary improvements, including streets, roads, surface parking, lighting and other facilities;
- f. Construction or rehabilitation of buildings provided such buildings are devoted to a government use or purpose;
- g. Structured parking facilities, publicly or privately owned, that serve a public purpose; and
- h. Debt service reserves, capitalized interest, and issuance costs;

In order to facilitate a TIF bond issuance, the City must: (a) create a designated TIF Development District encompassing the new development project; (b) establish the Tax Increment fund; and, (c) subject to appropriation, release the Tax Increment to the bond holders to repay the principal and debt. TIF bonds may be taxable or tax exempt as determined by IRS rules and regulations.

Typically, there are four City Council Ordinances necessary to establish a TIF, as follows:

1. A TIF Development District Ordinance – to create and establish the boundaries of the TIF District;
2. A Special Taxing District Ordinance – to create and to establish the boundaries of the Special Taxing District;
3. A Bond Authorization Ordinance – to authorize the Mayor and Director of Finance to issue TIF bonds;
4. A Supplemental Appropriation Ordinance – to authorize the City to receive and disburse the bond proceeds to for the eligible public improvements.

In conjunction with the establishment of a TIF District, the City will request the Supervisor of Assessments in the Maryland State Department of Assessment and Taxation to certify the pre-development assessable real property tax base within the TIF District that exists as of January 1st of the year preceding the creation of the TIF District. In addition, BDC or the City's Financial Advisor will establish an estimate of the new assessable property tax base as a result of the project, in order to estimate the amount of Tax Increment to be available for the bond issuance.

The City is the issuer of the TIF bonds, but the bonds do not carry the “full faith and credit” of the City, and the City's obligation does not extend beyond the customary collection of real property taxes and the release of Tax Increment to the bond holders. Funds for repayment of the bonds are limited to only the Tax Increment generated within the TIF District; properties outside the TIF District cannot be directly charged or assessed for the debt service on the TIF bonds.

Whether future property values in the TIF District increase to the level sufficient to pay the debt service on the bonds is the underlying risk of a TIF bond transaction. To mitigate this risk, the City typically requires a “Special Tax District” to be established contiguous with the creation of the TIF District. Established by City Ordinance, and only after approval of two thirds of the property owners within the TIF District, the Special Tax District has the authority to assess additional property taxes, or “Special Taxes,” if necessary, to repay the TIF bonds if the Tax Increment is insufficient. These Special Taxes are assessed only upon the owners of property within the TIF District (who is usually the developer of the project) at the time of assessment. As a condition of establishing the Special Tax District, the City requires the property owners within the TIF District to execute a “Special Tax Petition,” whereby the property owners promise to pay any such Special Taxes that are assessed within the Special Tax District. On larger TIFs such as Westport and Harbor Point, the risk of insufficient Tax Increment is further mitigated by issuing the TIF bonds in series, rather than all at once, to limit the amount of outstanding debt associated with any single TIF.

3. BDC’s Underwriting Process

BDC’s analysis and underwriting of a TIF begins with a specific developer’s formal request for a TIF, and receipt by BDC of all background materials including detailed project financial and design information. In evaluating a developer’s request for a TIF, BDC has two principal underwriting criteria: (1) the “But-for Test”; and (2) the “But-why Test.”

The But-for Test establishes the fact that without a TIF, the proposed project is not financially feasible. This is accomplished through the evaluation of the project’s financial models, developer pro-forma and returns, and an evaluation of the general risk and financeability of the project. The But-for Test allows BDC to establish that public financing does not unduly enrich the developer, that the project is feasible with public financing, but not feasible without it, and that the developer’s expectations with respect to markets and growth are reasonable and consistent with BDC’s expectations so that it can be reasonably established that future Tax Increment will be sufficient to service the TIF bond debt.

The But-why Test is critically related to the City’s goals and strategic plans for investment and land use. In evaluating the project, BDC refers to plans for the project area and the City as a whole to ensure that the proposed project meets strategic growth criteria, complies with existing land use regulations such as zoning and Urban Renewal and furthers the goals of the City’s Comprehensive Plan. The But-why Test also demonstrates that the City’s investment of limited real property taxes meets basic financial criteria for return on investment. As part of the But-why Test, BDC analyzes the Internal Rate of Return (IRR) on the public investment of future tax increment, and analyzes and quantifies the expected City benefits to be generated by the project in terms of: construction and permanent jobs created; construction and permit fees; and property, payroll, utility, parking, and other “piggy-back” taxes to be generated by the project.

The BDC process for TIF consideration from concept to completion typically includes the following steps:

- a. Formal submission of the TIF request and project information by the developer.
- b. BDC staff-level analysis of the request in consultation with the City Finance Department, including review by the City's Bond Counsel, Financial Advisor, and the Law Department.
- c. Consideration and approval of the TIF by the Project Review and Oversight Committee of the BDC Board of Directors.
- d. Consideration and approval of the request by BDC's Board of Directors.
- e. Approval by the Mayor and authorization to proceed to the Board of Finance.
- f. Consideration of the TIF by the Board of Finance and authorization to introduce TIF legislation.
- g. City Council approval of TIF legislation.
- h. Formal underwriting by third-party bond issuers and financial advisors.
- i. Consideration and approval of all bond documents by the Board of Estimates.
- j. Rating, marketing, and issuance of bonds.

This process typically takes a year or longer from start to finish depending on the legislative timeline and the ease or complexity of underwriting.

4. Existing and Proposed City TIFs

To date, BDC has worked on the TIF's shown below. Another TIF, EDBI community, has been established by the City without BDC's involvement. The nine TIFs and their dollar amounts are as follows:

Project Name	Amount (gross issuance)	Notes
EBDI	\$78,300,000	Complete, stabilizing
Mondawmin Mall	\$15,000,000	Complete (private placement, special taxes have been assessed and paid)
West Baltimore	\$13,250,000	Complete, self-supporting
Clipper Mill	\$7,959,000	Complete, self-supporting
Harborview	\$7,479,000	Complete, self-supporting
Frankford Estates	\$5,958,000	Complete, self-supporting
Locust Point	\$2,977,000	Complete, self-supporting
Charles Village	\$ 2,004,912	Complete (pay-go)
Belvedere Square	\$2,000,000	Complete, stabilizing (special taxes have been assessed and paid)
Total	\$134,927,912	

The total amount of TIF debt issued by the City to date is \$134,927,912. Another TIF, Westport, has been approved by the City, but no bonds have yet been issued. A proposed TIF, Harbor Point, is currently pending in the City Council:

Project Name	Amount (projected gross issuance)	Year Projected (first phase)	Notes
Westport (all phases)	\$160,000,000	TBD	Approved but not issued
Harbor Point (all phases)	\$155,000,000	2011	In Council
Total	\$315,000,000		

Current funded TIFs, plus those approved and pending, total \$449.9 Million.

In addition, BDC is aware of approximately \$25 million in potential future TIF requests which are conceptual at this time, including:

Project Name	Amount (projected gross issuance)	Year Projected (first phase)	Notes
Poppleton (HCD)	\$10,000,000	TBD	Conceptual analysis
State Center (BDC)	\$15,000,000	TBD	Conceptual analysis
Total	\$25,000,000		

Conclusion

TIF is a useful tool to finance construction of necessary public infrastructure and site improvements in the City to support needed private development. While TIF is able to assist the City in achieving its development and land use goals by redeveloping blighted and/or underutilized properties, while growing the City's tax base and creating jobs, TIF should be used strategically and judiciously. To this end, the City has established a rigorous review and approval process that is public and transparent.